

GENERAL INFORMATION
CONCERNING LEAD-BASED PAINT ACTIVITIES IN THE
DISTRICT OF COLUMBIA

D.C. LAW 11-221

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 11-221

“Lead-Based Paint Abatement and Control Act of 1996”

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 “the Act”, the Council of the District of Columbia adopted Bill No. 11-640, on first and second readings, October 1, 1996 and November 7, 1996, respectively. Following the signature of the Mayor on November 20, 1996, pursuant to Section 404(e) of “the Act”, and was assigned Act No. 11-438, and published in the December 27, 1996, edition of the D.C. Register (Vol. 43 page 6845) and transmitted to Congress on January 23, 1997 for a 30 day review, in accordance with Section 602 (c) (1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30 day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 11-221, effective April 9, 1997.

[signed]

CHARLENE DREW JARVIS
Chairman Pro Tempore of the Council

Dates Counted During the 30-day Congressional Review Period:

Feb. 3,4,5,6,7,10,11,12,13,24,25,26,27,28

Mar. 3,4,5,6,10,11,12,13,14,17,18,19,20,21

Apr. 7,8

DCMR TITLE 20, CHAPTER 8, SECTION 806

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director, Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in § 15 of the Lead-Based Paint Abatement Control Act of 1996, effective April 9, 1997, D.C. Law 11-221, D.C. Code § 6-997.14 (1997 Supp), and Mayor's Order 97-118, dated June 25, 1997, hereby gives notice of the adoption of the following amendments to Title 20 of the District of Columbia Municipal Regulations (DCMR). Final action to adopt this rulemaking was taken on December 9, 1997. No comments have been received and no substantive changes have been made to the text of the proposed rulemaking as published on October 24, 1997 at 44 DCR 6090. This final rulemaking will be effective upon publication in the D.C. Register.

The purpose of the proposed rulemaking is to set forth procedures for the accreditation of training programs and certification of individuals and business entities engaged in lead-based paint activities, and to establish work practice standards for conducting lead-based paint activities.

Chapter 8 of Title 20 DCMR is amended by revising the heading and by adding a new § 806 (Control of Lead) to read as follows.

CHAPTER 8 – ASBESTOS, SULFUR, NITROGEN OXIDES AND LEAD

806 CONTROL OF LEAD

806.1 The requirements of 40 CFR § 745.223 (Definitions), 40 CFR § 745.225 (Accreditation of training programs, target housing and child-occupied facilities), 40 CFR § 745.226 (certification of individuals and firms engaged in lead-based paint activities, target housing and child-occupied facilities), and 40 § 745.227 (work practice standards for conducting lead-based paint activities, target housing and child-occupied facilities) are adopted and incorporated by reference with the terms used and defined except that

- (a) The term “Administrator” as used in the 40 CFR §§ 745.223, 745.225, 745.226 and 745.227 shall mean the Director of the District of Columbia Department of Consumer and Regulatory Affairs (“Director”).
- (b) Lead-based paint activities subject to this section shall not be started prior to receipt of written approval from the Director.
- (c) The phrase “EPA” as used in 40 CFR §§ 745.223, 745.225, 745.226 and 745.227 shall mean the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”).
- (d) The terms “abatement,” “lead-based paint,” “lead-based paint activity,” “lead-based paint hazard” and “lead contaminated soil” shall have the

same meaning as used in D. C. Code § 60997.1, and

- (e) To receive certification as a risk assessor, the following additional requirements shall apply
 - (1) The person certified as a risk assessor shall not maintain a financial interest in a lead abatement business entity.
 - (2) The person certified as a risk assessor shall not certify his or her own residence, and
 - (3) If performing clearance tests, the person certified as a risk assessor must submit to the Director prior to testing proof of current liability insurance, including professional, environmental and general liability, in an amount sufficient to cover the lead-based paint activity.

806.2 For the convenience of persons subject to the requirements of 806.1, Appendix 8.3 of this Subtitle contains pertinent sections of 40 CFR Part 745.61, Fed. Reg. 45778 (1996).

806.3 To obtain a lead abatement permit, a business entity or individual shall

- (a) Submit a permit application to the Director at least ten (10) business days prior to commencement of proposed activity.
- (b) Submit proof of current liability insurance, including professional, environmental and general liability, in an amount sufficient to cover the lead-based paint activity, and
- (c) Certify and describe intended compliance with the requirements for hazardous waste prescribed by Title 20 DCMR Chapters 40-54.

806.4 To obtain certification through reciprocity, an individual shall

- (a) Submit proof of current certification provided by a training program that has been formally accredited by EPA or by an EPA-approved state program that is at least as stringent as the requirements of this section.
- (b) Pass the examination required by the Director.
- (c) Meet or exceed any additional requirements set by the Director, and
- (d) Pay the reciprocity certification fee.

806.5 To obtain accreditation through reciprocity, a training provider shall

- (a) Submit proof of current accreditation by EPA or by an EPA-approved state program that is at least as stringent as the requirements of this section.
- (b) Pass a training course audit administered by the Director, and
- (c) Pay the accreditation reciprocity fee.

806.6 The fee schedule shall be as follows

Document/Activity	Fee Amount	Initial/Renewal
Business Entity Certification	\$300/year	Initial and Renewal
Inspector Certification	\$300/2 years	Initial and Renewal
Risk Assessor Certification	\$300/2 years	Initial and Renewal
Supervisor Certification	\$300/2 years	Initial and Renewal
Project Designer Certification	\$300/2 years	Initial and Renewal
Abatement Worker Certification	\$60/2 years	Initial and Renewal
Reciprocity Certification	Same as above	Same as above
Inspector Course Accreditation	\$1,200/year \$400/year	Initial Course Refresher Course
Project Designer Course Accreditation	\$400/year \$200/year	Initial Course Refresher Course
Abatement Worker Course Accreditation	\$800/year \$400/year	Initial Course Refresher Course
Reciprocity Accreditation	Same as above	Same as above
Abatement Permit	\$40 + 3% of	

Returned Check	\$25
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199.1 Lead-based paint project-shall have the same meaning as the term “lead-based paint activity”

Site – means one specific address, including unit number in a multi-unit building.

16 DCMR CHAPTER 32 (CIVIL INFRACTIONS)

SECTION 3240

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (“DOH”), pursuant to the authority set forth in section 14(b) of the “Lead-Based Paint Abatement and Control Act of 1996”, as amended, effective April 9, 1997 (D.C. Law 11-221; D.C. Code § 60997.13(b) (1999 Supp.)), 104(a) (1) of the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985”, as amended, effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 6-2704(a) (1) (1995 Repl. Vol.)) (the “Act”), and Mayor’s Order 99-68, dated April 28, 1999, hereby gives notice of the adoption of the following amendment to Chapter 32 of Title 16 of the District of Columbia Municipal Regulations (DCMR) effective upon publication of this notice in the D.C. Register. The purpose of the amendment is to establish fines for the violations of the provisions of the “Lead-Based Paint Abatement and Control Act of 1996” (D.C. Law 11-221; D.C. Code § 6-997.1 *et seq.*). Final action to adopt these rules was taken on August 21, 2000. Notice of Proposed Rulemaking was published on March 17, 2000 (47 DCR 1904)

16 DCMR Chapter 32 (Civil Infractions) is amended by adding a new section 3240 to read as follows:

3240 LEAD-BASED PAINT ABATEMENT AND CONTROL

3240.1 Violation of the following provisions shall be a Class 2 infraction:

- (a) D.C. Code 6-997.5(a) and (b) (failure to obtain certification before conducting a lead-based paint activity);
- (b) D.C. Code 6-997.7(a) (failure to obtain a permit before conducting lead-based paint abatement);
- (c) D.C. code 6-997.3(a) (3) (providing training to others for lead-based paint activities without accreditation);
- (d) D.C. Code 6-997.3(b) (applying lead-based paint or glaze to a surface);
- (e) D.C. Code 6-997.3(c) (selling, offering for sale, delivering, transferring, or possessing with intent to sell, deliver or transfer an article intended for use by children that has lead-based paint or glaze applied; and
- (f) D.C. Code 6-997.6(a) (failure to obtain accreditation for each training course or review course offered).

3240.2 Violation of D.C. Code 6-997.8 (record keeping requirements) shall be a Class 3 infraction.

3240.3 Violation of any provision of the Lead-Based Paint Abatement and control Act of 1996, D.C. Law 11-221 that is not cited elsewhere in this section shall be a Class 4 infraction.

D.C. ACT 11-438

AN ACT

D.C. ACT 11-438

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 20, 1996

To establish a program to reduce, eliminate, and abate lead-based paint hazards in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA. That this act may be cited as the “Lead-Based Paint Abatement and Control Act of 1996”.

Sec.2. Definitions.

For the purposes of this act, the term:

- (1) **“Abatement”** means any set of measures designed, in accordance with standards established by the Mayor, to eliminate or reduce lead-based paint hazards; but, such measures exclude routine, ordinary and common maintenance and repairs; such measures may include:
 - (A) The removal of lead-based paint and lead contaminated dust, the encapsulation, containment, enclosure, or covering of lead-based paint,, the replacement or demolition of lead-painted structures, surfaces or fixtures, and the removal or covering of lead contaminated soil.
 - (B) All preparation, cleanup, disposal, transportation, testing, and post-abatement clearance testing associated with the activities described in subparagraph (A) of this paragraph; and
 - (C) Renovation, remodeling, repair, and landscaping activities on or around any structure built prior to 1978.
- (2) **“Accessible surface”** means an interior or exterior surface painted with lead-based paint that is accessible to a child under the age of 8 years.
- (3) **“Accredited training provided”** means a training provided that has been approved by the Mayor to provide training for individuals who conduct lead-based paint activities.
- (4) **“Business entity”** means a partnership, firm, company, association, corporation, sole proprietorship, government, quasi-government entity, non-profit organization, or other business concern that conducts lead-based paint activities.
- (5) **“Certified business entity or certified individual”** means a business entity or individual who has met the requirements for conducting lead-based paint activities pursuant to this act.
- (6) **“Friction surface”** means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.
- (7) **“Impact surface”** means an interior or exterior surface that is subject to peeling, chipping, chalking, cracking, or deterioration by repeated impacts.
- (8) **“Lead-based paint”** means any paint or other surface coating containing lead or lead in its compounds in any quantity exceeding .5% of the total weight of the material or more than seven-tenths of a milligram per square centimeter (0.7

mg/cm²). Or in any quantity sufficient to constitute a health or environmental hazard.

(9) **“Lead-based paint activities”** means the following:

- (A) Identification, risk assessment, inspection, and abatement of lead-based paint, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil; and
- (B) Planning, project designing, and supervision of any of the activities listed in subparagraph (A) of this paragraph.
- (C) The term “lead-based paint activities” does not include routine, ordinary, and common maintenance and repairs.

(10) **“Lead-based paint hazard”** means any condition that causes or may cause exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that could result in adverse human health effects as determined by the Mayor.

(11) **“Lead-contaminated soil”** means bare soil on real property that contains lead at, or in excess of, the levels determined by the Mayor to be hazardous to human health.

Sec.3. Establishment of lead-based paint abatement and control program.

The Mayor shall establish a program for the reduction, elimination, and abatement of lead-based paint hazards in the District pursuant to the provisions of this act that will meet federal requirements, to include:

- (1) Development of standards and procedures for conducting lead-based paint activities;
- (2) Community outreach and education; and
- (3) Other functions to implement this act as determined by the Mayor.

Sec.4. Prohibition on lead-based paint activities.

(a) A business entity or individual shall not do any of the following in violation of the provisions of this act or rules promulgated pursuant to this act:

- (1) Conduct a lead-based paint activity;
- (2) Undertake a lead-based paint abatement project; or
- (3) Provide training to others who conduct lead-based paint activities.

(b) An individual shall not apply a lead-based paint or glaze to any surface including, but not limited to:

- (1) The interior and exterior surfaces of:
 - (A) Any residential, public, or commercial building, bridge, or other structure or superstructure; or
 - (B) Any fixture, household appliance, cooking, drinking, or eating utensil, furniture, or toy or other article intended for use by children; or
- (2) Any paved surface.

(c) A business entity or individual shall not sell, offer for sale, deliver, transfer, or possess with intent to sell, deliver, or transfer any fixture, household appliance, cooking, drinking, or eating utensil, furniture, or toy or other article intended for use by children to which a lead-based paint or glaze has been applied.

Sec.5. Exemptions from the provisions of this act.

The following are exempt from the provisions of this act:

- (1) Individuals who perform lead-based paint activities at residences which they own, unless the residence is occupied by a person or persons other than the

- owner or the owner's immediate family; unless any child under the age of 8 years resides, is expected to reside in, or regularly visits such housing;
- (2) Housing for the elderly or persons with disabilities; unless any child under the age of 8 years resides, is expected to reside in or regularly visits such housing;
- (3) Any 0-bedroom unit, such as an efficiency apartment; and
- (4) Housing built after 1978.

Sec.6. Certification requirements for individuals and business entities.

- (a) An individual shall be certified by the Mayor or possess certification provided by a training program that has been formally accredited either by EPA or by an EPA-approved state program prior to conducting a lead based paint activity in the District. To obtain certification from the Mayor, an individual shall:
 - (1) Submit proof to the Mayor that he or she has successfully completed an accredited training course and any required accredited review course;
 - (2) Pass an examination required by the Mayor; and
 - (3) Meet or exceed any additional requirements set by the Mayor.
- (b) A business entity shall be certified by the Mayor prior to conducting a lead-based paint activity or project in the District. To obtain certification, a business entity shall demonstrate to the satisfaction of the Mayor the following:
 - (1) That all its employees and subcontractors conducting lead-based paint activities are certified pursuant to the act;
 - (2) That the business entity and its employees and subcontractors will conduct lead-based paint activities in accordance with all applicable federal and District environmental occupational safety, and health laws, regulations and rules;
 - (3) That the business entity and its employees and subcontractors will comply with all applicable federal and District laws, regulations, and rules governing the disposal of all waste containing lead; and
 - (4) Any additional requirements set by the Mayor necessary to implement this act.
- (c) The Mayor shall establish criteria, procedures, and fees for reciprocity of certification.
- (d) All certificates issued to business entities shall expire 12 months from the date of certification. All certificates issued to individuals shall expire 24 months from the date of certification.
- (e) Individuals and business entities seeking certification and certification renewal in the District shall pay a reasonable fee set by the Mayor. The Mayor shall, by rulemaking, revise the certification and certification renewal fees as necessary to cover the administrative costs associated with the issuance of certificates.

Sec.7. Accreditation of training providers.

- (a) A training provider shall be accredited separately for each training course or review course offered by that training provider. To receive accreditation, a training provider shall:
 - (1) Submit an application to the Mayor for approval, or provide proof of accreditation by EPA, or a state EPA-approved accredited training provider:
 - (A) Qualifications of all training managers and instructors;
 - (B) Copies of all instructor and student course materials for each course offered;
 - (C) A description of the facilities and equipment available for lecture and hands-on training; and
 - (D) Any other information determined by the Mayor to be necessary for approval of an application for accreditation; and
 - (2) Pay a reasonable fee with each application, except that fees shall not be imposed on any District government or nonprofit training program; the Mayor may by

rulemaking revise the application fees as necessary to cover the administrative cost associated with accreditation and accreditation renewal.

- (b) Accreditation by the Mayor shall expire 12 months from the date of accreditation.

Sec.8. Permit requirements.

- (a) Prior to conducting a lead-based paint abatement as defined in section 2 (1) (A), business entities and individuals, except government agencies, shall obtain a permit from the Mayor. To obtain a permit, an application shall be submitted to the Mayor for approval with the appropriate fee. The application shall contain the following information:
- (1) The location of the lead-based paint abatement project;
 - (2) The starting and completion dates of the lead-based paint activity;
 - (3) The approximate amount of lead-based paint or lead-based paint containing materials to be abated;
 - (4) The method of abatement to be employed;
 - (5) The provisions for medical surveillance and worker protection;
 - (6) The manner in which the waste containing lead will be disposed and location of the disposal site;
 - (7) A description of the areas immediately adjacent to the abatement site;
 - (8) Proof of certification, pursuant to section 6, of the business entity and of all individuals who will be engaging in the lead-based paint abatement; and
 - (9) Any other information required by the Mayor.
- (b) A permit fee determined by the Mayor shall be assessed for each lead-based paint abatement project. The Mayor may by rulemaking revise permit fees as necessary to recover the costs of administering and enforcing this act. Permits shall be valid for a period not to exceed 1 year from the date of issuance. Each permit shall be limited to one site and shall not be transferable to another site.

Sec.9. Record keeping requirements.

- (a) Business entities and individuals conducting lead-based paint activities shall;
- (1) Keep a record of all lead-based paint activities performed; and
 - (2) Make that record available to the Mayor upon reasonable request.
- (b) The records required by this section shall be kept for a minimum of 3 years.
- (c) The records required by this section shall include;
- (1) The address or location of each lead-based paint activity;
 - (2) The name and address of the individual who supervised the lead-based paint activity;
 - (3) A Description of the lead-based paint activity and the amount of lead-based paint, if any, that was abated;
 - (4) The starting and completion dates of the lead-based paint activity;
 - (5) A summary of the procedures that were used to comply with all applicable standards;
 - (6) The name and address of each disposal site where the waste containing lead is deposited; and
 - (7) Any other information that the Mayor requires.

Sec.10. Inspections by the Mayor.

- (a) The Mayor shall have the right to randomly and periodically inspect any and all lead-based paint activities in the District, and all pertinent records, documents, or data compilations, for the purpose of ensuring compliance with this act. Inspections may take place at any reasonable time upon the presentation of appropriate credentials.

- (b) If, upon inspection, the Mayor has reason to believe that (i) there has been a violation of this act or of the rules and regulations issued pursuant to this act, or (ii) a threat exists to human health, the public welfare, or the environment, the Mayor may:
- (1) Give written notice of the alleged violation or threat to the party responsible and order the party to take such corrective measures as the Mayor determines reasonable and necessary;
 - (2) Issue a cease and desist order;
 - (3) Impose civil or criminal fines and penalties in accordance with sections 13 and 14: or
 - (4) Request the Corporation Counsel to commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief.
- (c) If the Mayor is denied access to conduct an inspection in accordance with this section, the Mayor may apply to the Superior Court of the District of Columbia for a search warrant. Denial of access to conduct an inspection is an offense punishable pursuant to section 14.

Sec.11. Denial, suspension, or revocation.

The Mayor may, after notice and opportunity for hearing, suspend, revoke, modify, or refuse to issue, renew, or restore a certificate, permit, or accreditation issued under section 6,7, or 8 to protect the public health, safety, or welfare, if the Mayor finds that the applicant or holder has:

- (1) Failed to comply with any provision of this act or rule issued pursuant to this act;
- (2) Misrepresented facts relating to a lead-based paint activity to a client or customer;
- (3) Made a false statement or misrepresentation material to the issuance, modification, or renewal of a certificate, permit, or accreditation;
- (4) Submitted a false or fraudulent record, invoice, or report;
- (5) As a training provider, or as an instructor, provided inaccurate information or inadequate training;
- (6) Had a history of repeated violations; or
- (7) Had a certificate, permit, or accreditation denied, revoked, or suspended in another state or jurisdiction.

Sec.12. Hearings.

Any party adversely affected by an action taken pursuant to the provisions of this act, or the rules or regulations promulgated pursuant to this act, is entitled to a hearing before the Mayor upon filing with the Mayor, within 15 days from the date of such action, a written request for a hearing. Such hearing shall be held in accordance with section 10 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1028: D.C. Code § 1-1509).

Sec.13. Criminal penalties/fines.

- (a) Notwithstanding any other provision of this act, any violation of section 4,6,7, or 8, or the implementing rules and regulations shall be punishable by a fine not to exceed \$1,000 for the first offense, or \$5,000 for any subsequent offense, imprisonment not to exceed 6 months, or both.
- (b) Each day of each violation shall constitute a separate offense, and the penalties described shall be applicable to each of the separate offenses.
- (c) All prosecutions under this section shall be in the Superior Court of the District of Columbia in the name of the District of Columbia and shall be instituted by the Corporation Counsel.

Sec.14. Civil penalties/fines: civil infractions.

- (a) Any violation of this act is punishable by a fine not to exceed \$500 for each day of each violation.
- (b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this act or the rules issued under authority of this act pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 6-2701 *et seq.*) (“Civil Infractions Act”). Adjudication of any infractions shall be pursuant to titles I-III of the Civil Infractions Act.

Sec.15. Rulemaking.

The Mayor shall issue rules and regulations to implement the provisions of this act, in accordance with title 1 of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*).

Sec.16. Effective date.

This act shall take effect after approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 approved April 17, 1985 (109 Stat. 116; D.C. Code § 47-392.3(a), and a 30-day period of Congressional review as provided in section 602 (c) (1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-223 (c) (1), and publication in the District of Columbia Register.

[signed]

Chairman
Council of the District of Columbia

[signed]

Mayor
District of Columbia

APPROVED: November 20, 1996

CFR PART 745

SUBPART L – LEAD-BASED PAINT ACTIVITIES

Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a Federal regulation under section 402 of the Toxic Substance Control Act (TSCA) to ensure that individuals conducting lead-based paint activities in target housing and child-occupied facilities are properly trained and certified, that training programs providing instruction in such activities are accredited and that these activities are conducted according to reliable, effective and safe work practice standards. The Agency is also finalizing a Federal regulation under section 404 of TSCA that will allow States and Indian Tribes to seek authorization to administer and enforce the regulations developed under section 402. The goal of this regulation is to ensure the availability of a trained and qualified workforce to identify and address lead-based paint hazards, and to protect the general public from exposure to lead hazards.

DATES: This document is effective August 29, 1996. Specific applicability dates related to this final rule are as follows: States and Indian Tribes seeking EPA authorization to administer and enforce their own lead-based paint activities programs may apply to the Agency starting October 28, 1996. Following EPA authorization, the requirements of the State or Tribal program will become effective as specified in such program. For States and Indian Tribes that do not apply to EPA for and receive authorization, EPA will administer and enforce the regulations for lead-based paint activities contained in subpart L. The requirements of Subpart L will begin to apply in non-authorized States and Indian Country no later than August 31, 1998, as specified below. In States and Indian Country where EPA will administer and enforce subpart L, training programs that seek to provide lead-based paint activities training courses or refresher courses pursuant to § 745.225 may first apply to EPA for accreditation on or after August 31, 1998. Such training programs cannot provide, offer, or claim to provide training or refresher training for lead-based paint activities as defined in this subpart, without acquiring accreditation from EPA pursuant to § 745.225 on or after March 1, 1999. In EPA-administered States and Indian Country, no individual or firm can perform, offer, or claim to perform lead-based paint activities as defined in this subpart, without certification from EPA to conduct such activities pursuant to § 745.226 on or after August 30, 1999. Such individuals or firms may first apply to EPA for certification pursuant to section 745.226 after March 1, 1999. In EPA-administered States and Indian Country, after August 30, 1999 all lead-based paint activities, as defined in this subpart, must be performed pursuant to the work practice standards contained in § 745.227.

ADDRESSEES: Copies of this rule, the public comments received on this rule, EPA's response to those comments and other relevant documents that support the rule are available for public inspection at EPA's headquarters office on weekdays, except legal holidays, between the hours of noon and 4 p.m. at the following location: Environmental Protection Agency, TSCA Public Docket Office (7407), 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202-554-1404.
TDD: 202-554-0551, e-mail: TSCA-Hotline@epamail.epa.gov.

Subpart L—Lead-Based Paint Activities

§ 745.220 Scope and applicability.

- (a) This subpart contains procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the accreditation lead-based paint activities training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing such activities. This subpart also requires that, except as discussed below, all lead-based paint activities, as defined in this subpart, be performed by certified individuals and firms.
- (b) This subpart applies to all individuals and firms who are engaged in lead-based paint activities as defined in § 745.223, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level. This subpart applies only in those States or Indian Country that do not have an authorized State or Tribal program pursuant to § 745.324 of subpart Q.

- (c) Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, including the requirements of this subpart regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.
- (d) While this subpart establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in this subpart requires that the owner or occupant undertake any particular lead-based paint activity.

§ 745.223 Definitions.

The definitions in subpart A apply to this subpart. In addition, the following definitions apply.

Abatement means any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

(1) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

(2) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures

(3) Specifically, abatement includes, but is not limited to:

(i) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that:

(A) Shall result in the permanent elimination of lead-based paint hazards; or

(B) Are designed to permanently eliminate lead-based paint hazards and are described in paragraphs (1) and (2) of this definition.

(ii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals certified in accordance with § 745.226, unless such projects are covered by paragraph (4) of this definition;

(iii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless such projects are covered by paragraph (4) of this definition; or (iv) Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted

45814 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations in response to State or local abatement orders.

(4) Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

Accredited training program means a training program that has been accredited by EPA pursuant to § 745.225 to provide training for individuals engaged in lead-based paint activities.

Adequate quality control means a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

Certified firm means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities to which EPA has issued a certificate of approval pursuant to § 745.226(f).

Certified inspector means an individual who has been trained by an accredited training program, as defined by this section, and certified by EPA pursuant to § 745.226 to conduct inspections. A certified inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Certified abatement worker means an individual who has been trained by an accredited training program, as defined by this section, and certified by EPA pursuant to § 745.226 to perform abatements.

Certified project designer means an individual who has been trained by an accredited training program, as defined by this section, and certified by EPA pursuant to § 745.226 to prepare abatement project designs, occupant protection plans, and abatement reports.

Certified risk assessor means an individual who has been trained by an accredited training program, as defined by this section, and certified by EPA pursuant to § 745.226 to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Certified supervisor means an individual who has been trained by an accredited training program, as defined by this section, and certified by EPA pursuant to § 745.226 to supervise and conduct abatements, and to prepare occupant protection plans and abatement reports.

Child-occupied facility means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, 6 years of age or under, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms.

Clearance levels are values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

Common area means a portion of a building that is generally accessible to all occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

Component or building component means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as: painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

Containment means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

Course agenda means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

Course test means an evaluation of the overall effectiveness of the training which shall test the trainees' knowledge and retention of the topics covered during the course.

Course test blue print means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

Deteriorated paint means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

Discipline means one of the specific types or categories of lead-based paint activities identified in this subpart for which individuals may receive training from accredited programs and become certified by EPA. For example, "abatement worker" is a discipline.

Distinct painting history means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

Documented methodologies are methods or protocols used to sample for the presence of lead in paint, dust, and soil.

Elevated blood lead level (EBL) means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 mg/dl (micrograms of lead per deciliter of whole blood) for a single venous test or of 15–19 mg/dl in two consecutive tests taken 3 to 4 months apart.

Encapsulant means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

Encapsulation means the application of an encapsulant.

Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

Guest instructor means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

Hands-on skills assessment means an evaluation which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in § 745.225(d), as well as any other skill taught in a training course.

Hazardous waste means any waste as defined in 40 CFR 261.3.

45815 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

Inspection means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

Interim certification means the status of an individual who has successfully completed the appropriate training course in a discipline from an accredited training program, as defined by this section, but has not yet received formal certification in that discipline from EPA pursuant to § 745.226. Interim certifications expire 6 months after the completion of the training course, and is equivalent to a certificate for the 6- month period.

Interim controls means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

Lead-based paint activities means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement, as defined in this subpart.

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Administrator pursuant to TSCA section 403.

Lead-contaminated dust means surface dust in residential dwellings, or child-occupied facilities that contains an area or mass concentration of lead at or in excess of levels identified by the Administrator pursuant to TSCA section 403.

Lead-contaminated soil means bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of levels identified by the Administrator pursuant to TSCA section 403.

Lead-hazard screen is a limited risk assessment activity that involves limited paint and dust sampling as described in § 745.227(c).

Living area means any area of a residential dwelling used by one or more children age 6 and under, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

Multi-family dwelling means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Paint in poor condition means more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than 2 square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10 percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

Permanently covered soil means soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

Person means any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal government.

Principal instructor means the individual who has the primary responsibility for organizing and teaching a particular course.

Recognized laboratory means an environmental laboratory recognized by EPA pursuant to TSCA section 405(b) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Residential dwelling means (1) a detached single family dwelling unit, including attached structures such as porches and stoops; or (2) a single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Risk assessment means (1) an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and (2) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children age 6 years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

Training curriculum means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

Training hour means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

Training manager means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

Visual inspection for clearance testing means the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether or not the abatement has been successfully completed.

Visual inspection for risk assessment means the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

§ 745.225 Accreditation of training programs: target housing and child-occupied facilities.

(a) Scope.

(1) A training program may seek accreditation to offer lead-based paint activities courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker. A training program may also seek accreditation to offer refresher courses for each of the above listed disciplines.

(2) Training programs may first apply to EPA for accreditation of their lead-based paint activities courses or refresher courses pursuant to this section on or after August 31, 1998.

(3) A training program shall not provide, offer, or claim to provide EPA-accredited lead-based paint activities courses without applying for and receiving accreditation from EPA as required under paragraph (b) of this section on or after March 1, 1999.

(b) *Application process.*

The following are procedures a training program shall follow to receive

45816 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

EPA accreditation to offer lead-based paint activities courses:

- (1) A training program seeking accreditation shall submit a written application to EPA containing the following information:
 - (i) The training program's name, address, and telephone number.
 - (ii) A list of courses for which it is applying for accreditation.
 - (iii) A statement signed by the training program manager certifying that the training program meets the requirements established in paragraph (c) of this section. If a training program uses EPA-recommended model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA under subpart Q of this part, the training program manager shall include a statement certifying that, as well.
 - (iv) If a training program does not use EPA-recommended model training materials or training materials approved by an authorized State or Indian Tribe, its application for accreditation shall also include:
 - (A) A copy of the student and instructor manuals, or other materials to be used for each course.
 - (B) A copy of the course agenda for each course.
 - (v) All training programs shall include in their application for accreditation the following:
 - (A) A description of the facilities and equipment to be used for lecture and hands-on training.
 - (B) A copy of the course test blueprint for each course.
 - (C) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.
 - (D) A copy of the quality control plan as described in paragraph (c)(9) of this section.
- (2) If a training program meets the requirements in paragraph (c) of this section, then EPA shall approve the application for accreditation no more than 180 days after receiving a complete application from the training program. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, EPA may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. EPA may also request additional materials retained by the training program under paragraph (i) of this section. If a training program's application is disapproved, the program may reapply for accreditation at any time.
- (3) A training program may apply for accreditation to offer courses or refresher courses in as many disciplines as it chooses. A training program may seek accreditation for additional courses at any time as long as the program can demonstrate that it meets the requirements of this section.

(c) *Requirements for the accreditation of training programs.*

For a training program to obtain accreditation from EPA to offer lead-based paint activities courses, the program shall meet the following requirements:

- (1) The training program shall employ a training manager who has:
 - (i) At least 2 years of experience, education, or training in teaching workers or adults; or
 - (ii) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or
 - (iii) Two years of experience in managing a training program specializing in environmental hazards; and
 - (iv) Demonstrated experience, education, or training in the construction industry including: lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
- (2) The training manager shall designate a qualified principal instructor for each course who has:
 - (i) Demonstrated experience, education, or training in teaching workers or adults; and

- (ii) Successfully completed at least 16 hours of any EPA-accredited or EPA-authorized State or Tribal-accredited lead-specific training; and
 - (iii) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
- (3) The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.
- (4) The following documents shall be recognized by EPA as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in paragraphs (c)(1) and (c)(2) of this section. This documentation need not be submitted with the accreditation application, but, if not submitted, shall be retained by the training program as required by the recordkeeping requirements contained in paragraph (i) of this section. Those documents include the following:
- (i) Official academic transcripts or diploma as evidence of meeting the education requirements.
 - (ii) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.
 - (iii) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.
- (5) The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.
- (6) To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:
- (i) The inspector course shall last a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in paragraph (d)(1) of this section.
 - (ii) The risk assessor course shall last a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in paragraph (d)(2) of this section.
 - (iii) The supervisor course shall last a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in paragraph (d)(3) of this section.
 - (iv) The project designer course shall last a minimum of 8 training hours. The minimum curriculum requirements for the project designer course are contained in paragraph (d)(4) of this section.
 - (v) The abatement worker course shall last a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in paragraph (d)(5) of this section.
- (7) For each course offered, the training program shall conduct either a course test at the completion of the course, and if applicable, a hands-on skills

45817 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

assessment, or in the alternative, a proficiency test for that discipline.

Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course, or successfully complete a proficiency test.

- (i) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment or proficiency test to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in paragraph (d) of this section.
 - (ii) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.
 - (iii) The course test shall be developed in accordance with the test blueprint submitted with the training accreditation application.
- (8) The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

- (i) The name, a unique identification number, and address of the individual.
 - (ii) The name of the particular course that the individual completed.
 - (iii) Dates of course completion/test passage.
 - (iv) Expiration date of interim certification, which shall be 6 months from the date of course completion.
 - (v) The name, address, and telephone number of the training program.
- (9) The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:
- (i) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.
 - (ii) Procedures for the training manager's annual review of principal instructor competency.
- (10) The training program shall offer courses which teach the work practice standards for conducting lead-based paint activities contained in § 745.227, and other standards developed by EPA pursuant to Title IV of TSCA. These standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.
- (11) The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this section.
- (12) The training manager shall allow EPA to audit the training program to verify the contents of the application for accreditation as described in paragraph (b) of this section.

(d) ***Minimum training curriculum requirements.***

To become accredited to offer lead-based paint courses instruction in the specific disciplines listed below, training programs must ensure that their courses of study include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the course.

- (1) *Inspector.*
 - (i) Role and responsibilities of an inspector
 - (ii) Background information on lead and its adverse health effects.
 - (iii) Background information on Federal, State, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
 - (iv) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing.*
 - (v) Paint, dust, and soil sampling methodologies.*
 - (vi) Clearance standards and testing, including random sampling.*
 - (vii) Preparation of the final inspection report.*
 - (viii) Recordkeeping.
- (2) *Risk assessor.*
 - (i) Role and responsibilities of a risk assessor.
 - (ii) Collection of background information to perform a risk assessment.
 - (iii) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.
 - (iv) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.*
 - (v) Lead hazard screen protocol.
 - (vi) Sampling for other sources of lead exposure.*
 - (vii) Interpretation of lead-based paint and other lead sampling results, including all applicable State or Federal guidance or regulations pertaining to lead-based paint hazards.*
 - (viii) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.
 - (ix) Preparation of a final risk assessment report.
- (3) *Supervisor.*
 - (i) Role and responsibilities of a supervisor.
 - (ii) Background information on lead and its adverse health effects.
 - (iii) Background information on Federal, State, and local regulations and guidance that pertain to lead-based paint abatement.
 - (iv) Liability and insurance issues relating to lead-based paint abatement.
 - (v) Risk assessment and inspection report interpretation.*
 - (vi) Development and implementation of an occupant protection plan and abatement report.

- (vii) Lead-based paint hazard recognition and control.*
 - (viii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*
 - (ix) Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods.*
 - (x) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods.*
 - (xi) Clearance standards and testing.
 - (xii) Cleanup and waste disposal.
 - (xiii) Recordkeeping.
- (4) *Project designer.*
- (i) Role and responsibilities of a project designer.
 - (ii) Development and implementation of an occupant protection plan for large scale abatement projects.
 - (iii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.
 - (iv) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.
 - (v) Clearance standards and testing for large scale abatement projects.
 - (vi) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.
- (5) *Abatement worker.*
- (i) Role and responsibilities of an abatement worker.
 - (ii) Background information on lead and its adverse health effects.
 - (iii) Background information on Federal, State and local regulations and guidance that pertain to lead-based paint abatement.
 - (iv) Lead-based paint hazard recognition and control.*
 - (v) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*
 - (vi) Interior dust abatement methods/ cleanup or lead-based paint hazard reduction.*
 - (vii) Soil and exterior dust abatement methods or lead-based paint hazard reduction.*
- (e) ***Requirements for the accreditation of refresher training programs.***

A training program may seek accreditation to offer refresher training courses in any of the following disciplines: inspector, risk assessor, supervisor, project

45818 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

designer, and abatement worker. To obtain EPA accreditation to offer refresher training, a training program must meet the following minimum requirements:

- (1) Each refresher course shall review the curriculum topics of the full-length courses listed under paragraph (d) of this section, as appropriate. In addition, to become accredited to offer refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:
 - (i) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
 - (ii) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
 - (iii) Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
- (2) Each refresher course, except for the project designer course, shall last a minimum of 8 training hours. The project designer refresher course shall last a minimum of 4 training hours.
- (3) For each course offered, the training program shall conduct a hands-on assessment (if applicable), and at the completion of the course, a course test.
- (4) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in paragraph (b) of this section. If so, EPA shall use the approval procedure described in paragraph (b) of this section. In addition, the minimum requirements contained in paragraphs (c) (except for the requirements in paragraph (c)(6)), and (e)(1), (e)(2) and (e)(3) of this section shall also apply.
- (5) A training program seeking accreditation to offer refresher training courses only shall submit a written application to EPA containing the following information:

- (i) The refresher training program's name, address, and telephone number.
- (ii) A list of courses for which it is applying for accreditation.
- (iii) A statement signed by the training program manager certifying that the refresher training program meets the minimum requirements established in paragraph (c) of this section, except for the requirements in paragraph (c)(6) of this section. If a training program uses EPA-developed model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA under § 745.324 to develop its refresher training course materials, the training manager shall include a statement certifying that, as well.
- (iv) If the refresher training course materials are not based on EPA-developed model training materials or training materials approved by an authorized State or Indian Tribe, the training program's application for accreditation shall include:
 - (A) A copy of the student and instructor manuals to be used for each course.
 - (B) A copy of the course agenda for each course.
- (v) All refresher training programs shall include in their application for accreditation the following:
 - (A) A description of the facilities and equipment to be used for lecture and hands-on training.
 - (B) A copy of the course test blueprint for each course.
 - (C) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).
 - (D) A copy of the quality control plan as described in paragraph (c)(9) of this section.
- (vi) The requirements in paragraphs (c)(1) through (c)(5), and (c)(7) through (c)(12) of this section apply to refresher training providers.
- (vii) If a refresher training program meets the requirements listed in this paragraph, then EPA shall approve the application for accreditation no more than 180 days after receiving a complete application from the refresher training program. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, EPA may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. EPA may also request additional materials retained by the refresher training program under paragraph (i) of this section. If a refresher training program's application is disapproved, the program may reapply for accreditation at any time.

(f) Re-accreditation of training programs.

- (1) Unless re-accredited, a training program's accreditation (including refresher training accreditation) shall expire 4 years after the date of issuance. If a training program meets the requirements of this section, the training program shall be re-accredited.
- (2) A training program seeking re-accreditation shall submit an application to EPA no later than 180 days before its accreditation expires. If a training program does not submit its application for re-accreditation by that date, EPA cannot guarantee that the program will be re-accredited before the end of the accreditation period.
- (3) The training program's application for re-accreditation shall contain:
 - (i) The training program's name, address, and telephone number.
 - (ii) A list of courses for which it is applying for re-accreditation.
 - (iii) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the students ability to learn.
 - (iv) A statement signed by the program manager stating:
 - (A) That the training program complies at all times with all requirements in paragraphs (c) and (e) of this section, as applicable; and
 - (B) The recordkeeping and reporting requirements of paragraph (i) of this section shall be followed.
- (4) Upon request, the training program shall allow EPA to audit the training program to verify the contents of the application for re-accreditation as described in paragraph (f)(3) of this section.

(g) Suspension, revocation, and modification of accredited training programs.

- (1) EPA may, after notice and an opportunity for hearing, suspend, revoke, or modify training program accreditation (including refresher training accreditation) if a training program, training manager, or other person with supervisory authority over the training program has:
 - (i) Misrepresented the contents of a training course to EPA and/or the student population.
 - (ii) Failed to submit required information or notifications in a timely manner.
 - (iii) Failed to maintain required records.

- (iv) Falsified accreditation records, instructor qualifications, or other accreditation-related information or documentation.
 - (v) Failed to comply with the training standards and requirements in this section.
 - (vi) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.
 - (vii) Made false or misleading statements to EPA in its application for accreditation or re-accreditation which EPA relied upon in approving the application.
- (2) In addition to an administrative or judicial finding of violation, execution of a consent agreement in settlement of an enforcement action constitutes, for purposes of this section, evidence

45819 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

of a failure to comply with relevant statutes or regulations.

(h) Procedures for suspension, revocation or modification of training program accreditation.

- (1) Prior to taking action to suspend, revoke, or modify the accreditation of a training program, EPA shall notify the affected entity in writing of the following:
- (i) The legal and factual basis for the suspension, revocation, or modification.
 - (ii) The anticipated commencement date and duration of the suspension, revocation, or modification.
 - (iii) Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification, or to receive accreditation in the future.
 - (iv) The opportunity and method for requesting a hearing prior to final EPA action to suspend, revoke or modify accreditation.
 - (v) Any additional information, as appropriate, which EPA may provide.
- (2) If a hearing is requested by the accredited training program, EPA shall:
- (i) Provide the affected entity an opportunity to offer written statements in response to EPA's assertions of the legal and factual basis for its proposed action, and any other explanations, comments, and arguments it deems relevant to the proposed action.
 - (ii) Provide the affected entity such other procedural opportunities as EPA may deem appropriate to ensure a fair and impartial hearing.
 - (iii) Appoint an official of EPA as Presiding Officer to conduct the hearing. No person shall serve as Presiding Officer if he or she has had any prior connection with the specific matter.
- (3) The Presiding Officer appointed pursuant to paragraph (h)(2) of this section shall:
- (i) Conduct a fair, orderly, and impartial hearing within 90 days of the request for a hearing.
 - (ii) Consider all relevant evidence, explanation, comment, and argument submitted.
 - (iii) Notify the affected entity in writing within 90 days of completion of the hearing of his or her decision and order. Such an order is a final agency action which may be subject to judicial review.
- (4) If EPA determines that the public health, interest, or welfare warrants immediate action to suspend the accreditation of any training program prior to the opportunity for a hearing, it shall:
- (i) Notify the affected entity of its intent to immediately suspend training program accreditation for the reasons listed in paragraph (g)(1) of this section.
If a suspension, revocation, or modification notice has not previously been issued pursuant to paragraph (g)(1) of this section, it shall be issued at the same time the emergency suspension notice is issued.
 - (ii) Notify the affected entity in writing of the grounds for the immediate suspension and why it is necessary to suspend the entity's accreditation before an opportunity for a suspension, revocation or modification hearing.
 - (iii) Notify the affected entity of the anticipated commencement date and duration of the immediate suspension.
 - (iv) Notify the affected entity of its right to request a hearing on the immediate suspension within 15 days of the suspension taking place and the procedures for the conduct of such a hearing.
- (5) Any notice, decision, or order issued by EPA under this section, any transcripts or other verbatim record of oral testimony, and any documents filed by an accredited training program in a hearing under this section shall be available to the public, except as otherwise provided by section 14 of TSCA or by part 2 of this title. Any such hearing at which oral testimony is presented shall be open to the public, except that the Presiding Officer may exclude the public to the extent necessary to allow presentation of information which may be entitled to confidential treatment under section 14 of TSCA or part 2 of this title.
- (6) The public shall be notified of the suspension, revocation, modification or reinstatement of a training program's accreditation through appropriate mechanisms.

(7) EPA shall maintain a list of parties whose accreditation has been suspended, revoked, modified or reinstated.

(i) Training program recordkeeping requirements.

(1) Accredited training programs shall maintain, and make available to EPA, upon request, the following records:

(i) All documents specified in paragraph (c)(4) of this section that demonstrate the qualifications listed in paragraphs (c)(1) and (c)(2) of this section of the training manager and principal instructors.

(ii) Current curriculum/course materials and documents reflecting any changes made to these materials.

(iii) The course test blueprint.

(iv) Information regarding how the hands-on assessment is conducted including, but not limited to:

(A) Who conducts the assessment.

(B) How the skills are graded.

(C) What facilities are used.

(D) The pass/fail rate.

(v) The quality control plan as described in paragraph (c)(9) of this section.

(vi) Results of the students' hands-on skills assessments and course tests, and a record of each student's course completion certificate.

(vii) Any other material not listed above in paragraphs (i)(1)(i) through (i)(1)(vi) of this section that was submitted to EPA as part of the program's application for accreditation.

(3) The training program shall retain these records at the address specified on the training program accreditation application (or as modified in accordance with paragraph (i) (3) of this section) for a minimum of 3 years and 6 months.

(4) The training program shall notify EPA in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

§ 745.226 Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities.

(a) Certification of individuals.

(1) Individuals seeking certification by EPA to engage in lead-based paint activities must either:

(i) Submit to EPA an application demonstrating that they meet the requirements established in paragraphs (b) or (c) of this section for the particular discipline for which certification is sought; or

(ii) Submit to EPA an application with a copy of a valid lead-based paint activities certification (or equivalent) from a State or Tribal program that has been authorized by EPA pursuant to subpart Q of this part.

(2) Individuals may first apply to EPA for certification to engage in lead-based paint activities pursuant to this section on or after March 1, 1999.

(3) Following the submission of an application demonstrating that all the requirements of this section have been met, EPA shall certify an applicant as an inspector, risk assessor, supervisor, project designer, or abatement worker, as appropriate.

(4) Upon receiving EPA certification, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities as established in § 745.227.

(5) It shall be a violation of TSCA for an individual to conduct any of the lead-based paint activities described in § 745.227 after August 30, 1999, if that individual has not been certified by EPA pursuant to this section to do so.

(b) Inspector, risk assessor or supervisor.

(1) To become certified by EPA as an inspector, risk assessor,

45820 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

or supervisor, pursuant to paragraph (a)(1)(i) of this section, an individual must:

(i) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(ii) Pass the certification exam in the appropriate discipline offered by EPA; and,

(iii) Meet or exceed the following experience and/or education requirements:

(A) Inspectors.

- (1) No additional experience and/or education requirements.
- (2) [Reserved]
- (B) Risk assessors.
 - (1) Successful completion of an accredited training course for inspectors; and
 - (2) Bachelor's degree and 1 year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an Associates degree and 2 years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
 - (3) Certification as an industrial hygienist, professional engineer, registered architect and/or certification in a related engineering/health/ environmental field (e.g., safety professional, environmental scientist); or
 - (4) A high school diploma (or equivalent), and at least 3 years of experience in a related field (e.g., lead, asbestos, environmental remediation work or construction).
- (C) Supervisor:
 - (1) One year of experience as a certified lead-based paint abatement worker; or
 - (2) At least 2 years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.

(2) The following documents shall be recognized by EPA as evidence of meeting the requirements listed in (b)(2)(iii) of this paragraph:

- (i) Official academic transcripts or diploma, as evidence of meeting the education requirements.
- (ii) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.
- (iii) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) In order to take the certification examination for a particular discipline an individual must:

- (i) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.
- (ii) Meet or exceed the education and/ or experience requirements in paragraph (b)(1)(iii) of this section.

(4) The course completion certificate shall serve as interim certification for an individual until the next available opportunity to take the certification exam. Such interim certification shall expire 6 months after issuance.

(5) After passing the appropriate certification exam and submitting an application demonstrating that he/she meets the appropriate training, education, and/or experience prerequisites described in paragraph (b)(1) of this section, an individual shall be issued a certificate by EPA. To maintain certification, an individual must be re-certified as described in paragraph (e) of this section.

(6) An individual may take the certification exam no more than three times within 6 months of receiving a course completion certificate.

(7) If an individual does not pass the certification exam and receive a certificate within 6 months of receiving his/her course completion certificate, the individual must retake the appropriate course from an accredited training program before reapplying for certification from EPA.

(c) *Abatement worker and project designer.*

(1) To become certified by EPA as an abatement worker or project designer, pursuant to paragraph (a)(1)(i) of this section, an individual must:

- (i) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.
- (ii) Meet or exceed the following additional experience and/or education requirements:
 - (A) Abatement workers.
 - (1) No additional experience and/or education requirements.
 - (2) [Reserved]
 - (B) Project designers.
 - (1) Successful completion of an accredited training course for supervisors.
 - (2) Bachelor's degree in engineering, architecture, or a related profession, and 1 year of experience in building construction and design or a related field; or (3) Four years of experience in building construction and design or a related field.

(2) The following documents shall be recognized by EPA as evidence of meeting the requirements listed in this paragraph:

- (i) Official academic transcripts or diploma, as evidence of meeting the education requirements.
 - (ii) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.
 - (iii) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.
- (3) The course completion certificate shall serve as an interim certification until certification from EPA is received, but shall be valid for no more than 6 months from the date of completion.
- (4) After successfully completing the appropriate training courses and meeting any other qualifications described in paragraph (c)(1) of this section, an individual shall be issued a certificate from EPA. To maintain certification, an individual must be re-certified as described in paragraph (e) of this section.

(d) *Certification based on prior training.*

- (1) Any individual who received training in a lead-based paint activity between October 1, 1990, and March 1, 1999 shall be eligible for certification by EPA under the alternative procedures contained in this paragraph. Individuals who have received lead-based paint activities training at an EPA-authorized State or Tribal accredited training program shall also be eligible for certification by EPA under the following alternative procedures:
- (i) Applicants for certification as an inspector, risk assessor, or supervisor shall:
 - (A) Demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity.
 - (B) Demonstrate that the applicant meets or exceeds the education and/or experience requirements in paragraph (b)(1)(iii) of this section.
 - (C) Successfully complete an accredited refresher training course for the appropriate discipline.
 - (D) Pass a certification exam administered by EPA for the appropriate discipline.
 - (ii) Applicants for certification as an abatement worker or project designer shall:
 - (A) Demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity.
 - (B) Demonstrate that the applicant meets the education and/or experience requirements in paragraphs (c)(1) of this section; and

45821 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

- (C) Successfully complete an accredited refresher training course for the appropriate discipline.

(2) Individuals shall have until August 30, 1999 to apply to EPA for certification under the above procedures. After that date, all individuals wishing to obtain certification must do so through the procedures described in paragraph (a), and paragraph (b) or (c) of this section, according to the discipline for which certification is sought.

(e) *Re-certification.*

- (1) To maintain certification in a particular discipline, a certified individual shall apply to and be re-certified by EPA in that discipline by EPA either:
- (i) Every 3 years if the individual completed a training course with a course test and hands-on assessment; or
 - (ii) every 5 years if the individual completed a training course with a proficiency test.
- (2) An individual shall be re-certified if the individual successfully completes the appropriate accredited refresher training course and submits a valid copy of the appropriate refresher course completion certificate.

(f) *Certification of firms.*

- (1) All firms which perform or offer to perform any of the lead-based paint activities described in § 745.227 after August 30, 1999 shall be certified by EPA.
- (2) A firm seeking certification shall submit to EPA a letter attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards in § 745.227 for conducting lead-based paint activities.
- (3) From the date of receiving the firm's letter requesting certification, EPA shall have 90 days to approve or disapprove the firm's request for certification. Within that time, EPA shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

(4) The firm shall maintain all records pursuant to the requirements in § 745.227.

(5) Firms may first apply to EPA for certification to engage in lead-based paint activities pursuant to this section on or after March 1, 1999.

(g) *Suspension, revocation, and modification of certifications of individuals engaged in lead-based paint activities.*

(1) EPA may, after notice and opportunity for hearing, suspend, revoke, or modify an individual's certification if an individual has:

- (i) Obtained training documentation through fraudulent means.
- (ii) Gained admission to and completed an accredited training program through misrepresentation of admission requirements.
- (iii) Obtained certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration, or experience.
- (iv) Performed work requiring certification at a job site without having proof of certification.
- (v) Permitted the duplication or use of the individual's own certificate by another.
- (vi) Performed work for which certification is required, but for which appropriate certification has not been received.
- (vii) Failed to comply with the appropriate work practice standards for lead-based paint activities at § 745.227.
- (viii) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

(2) In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(h) *Suspension, revocation, and modification of certifications of firms engaged in lead-based paint activities.*

(1) EPA may, after notice and opportunity for hearing, suspend, revoke, or modify a firm's certification if a firm has:

- (i) Performed work requiring certification at a job site with individuals who are not certified.
- (ii) Failed to comply with the work practice standards established in § 745.227.
- (iii) Misrepresented facts in its letter of application for certification to EPA.
- (iv) Failed to maintain required records.
- (v) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

(2) In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(i) *Procedures for suspension, revocation, or modification of the certification of individuals or firms.*

(1) If EPA decides to suspend, revoke, or modify the certification of any individual or firm, it shall notify the affected entity in writing of the following:

- (i) The legal and factual basis for the suspension, revocation, or modification.
- (ii) The commencement date and duration of the suspension, revocation, or modification.
- (iii) Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification or to receive certification in the future.
- (iv) The opportunity and method for requesting a hearing prior to final EPA action to suspend, revoke, or modify certification.
- (v) Any additional information, as appropriate, which EPA may provide.

(2) If a hearing is requested by the certified individual or firm, EPA shall:

- (i) Provide the affected entity an opportunity to offer written statements in response to EPA's assertion of the legal and factual basis and any other explanations, comments, and arguments it deems relevant to the proposed action.
- (ii) Provide the affected entity such other procedural opportunities as EPA may deem appropriate to ensure a fair and impartial hearing.
- (iii) Appoint an official of EPA as Presiding Officer to conduct the hearing.
No person shall serve as Presiding Officer if he or she has had any prior connection with the specific matter.

(3) The Presiding Officer shall:

- (i) Conduct a fair, orderly, and impartial hearing within 90 days of the request for a hearing;

(ii) Consider all relevant evidence, explanation, comment, and argument submitted; and (iii) Notify the affected entity in writing within 90 days of completion of the hearing of his or her decision and order. Such an order is a final EPA action subject to judicial review.

(4) If EPA determines that the public health, interest, or welfare warrants immediate action to suspend the certification of any individual or firm prior to the opportunity for a hearing, it shall:

(i) Notify the affected entity of its intent to immediately suspend certification for the reasons listed in paragraph (h)(1) of this section. If a suspension, revocation, or modification notice has not previously been issued, it shall be issued at the same time the immediate suspension notice is issued.

(ii) Notify the affected entity in writing of the grounds upon which the immediate suspension is based and why it is necessary to suspend the entity's accreditation before an opportunity for a hearing to suspend, revoke, or modify the individual's or firm's certification.

(iii) Notify the affected entity of the commencement date and duration of the immediate suspension.

(iv) Notify the affected entity of its right to request a hearing on the immediate suspension within 15 days of the suspension taking place

45822 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

and the procedures for the conduct of such a hearing.

(5) Any notice, decision, or order issued by EPA under this section, transcript or other verbatim record of oral testimony, and any documents filed by a certified individual or firm in a hearing under this section shall be available to the public, except as otherwise provided by section 14 of TSCA or by part 2 of this title. Any such hearing at which oral testimony is presented shall be open to the public, except that the Presiding Officer may exclude the public to the extent necessary to allow presentation of information which may be entitled to confidential treatment under section 14 of TSCA or part 2 of this title.

§ 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.

(a) *Effective date, applicability, and terms.*

(1) Beginning on March 1, 1999, all lead-based paint activities shall be performed pursuant to the work practice standards contained in this section.

(2) When performing any lead-based paint activity described by the certified individual as an inspection, lead-hazard screen, risk assessment or abatement, a certified individual must perform that activity in compliance with the appropriate requirements below.

(3) Documented methodologies that are appropriate for this section are found in the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); Regulations, guidance, methods or protocols issued by States and Indian Tribes that have been authorized by EPA; and other equivalent methods and guidelines.

(4) Clearance levels are appropriate for the purposes of this section may be found in the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead Contaminated Soil or other equivalent guidelines.

(b) *Inspection.*

(1) An inspection shall be conducted only by a person certified by EPA as an inspector or risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

(2) When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:

(i) In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint; and

(ii) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint.

- (3) Paint shall be sampled in the following manner: (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or
- (ii) All collected paint chip samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.
- (4) The certified inspector or risk assessor shall prepare an inspection report which shall include the following information:
- (i) Date of each inspection.
 - (ii) Address of building.
 - (iii) Date of construction.
 - (iv) Apartment numbers (if applicable).
 - (v) Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
 - (vi) Name, signature, and certification number of each certified inspector and/ or risk assessor conducting testing.
 - (vii) Name, address, and telephone number of the certified firm employing each inspector and/or risk assessor, if applicable.
 - (viii) Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device.
 - (ix) Specific locations of each painted component tested for the presence of lead-based paint.
 - (x) The results of the inspection expressed in terms appropriate to the sampling method used.

(c) *Lead hazard screen.*

- (1) A lead hazard screen shall be conducted only by a person certified by EPA as a risk assessor.
- (2) If conducted, a lead hazard screen shall be conducted as follows:
- (i) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.
 - (ii) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:
 - (A) Determine if any deteriorated paint is present, and
 - (B) Locate at least two dust sampling locations.
 - (iii) If deteriorated paint is present, each surface with deteriorated paint, which is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.
 - (iv) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children, age 6 and under, are most likely to come in contact with dust.
 - (v) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in paragraph (c)(1)(iii) of this section, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 6 and under, are most likely to come into contact with dust.
- (3) Dust samples shall be collected and analyzed in the following manner:
- (i) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures.
 - (ii) All collected dust samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.
- (4) Paint shall be sampled in the following manner:
- (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or
 - (ii) All collected paint chip samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.
- (5) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:
- (i) The information required in a risk assessment report as specified in paragraph (d) of this section, including

45823 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

paragraphs (d)(11)(i) through (d)(11)(xiv), and excluding paragraphs (d)(11)(xv) through (d)(11)(xviii) of this section. Additionally, any background information collected pursuant to paragraph (c)(2)(i) of this section shall be included in the risk assessment report; and

(ii) Recommendations, if warranted, or a follow-up risk assessment, and as appropriate, any further actions.

(d) *Risk assessment.*

(1) A risk assessment shall be conducted only by a person certified by EPA as a risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

(2) A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.

(3) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.

(4) Each surface with deteriorated paint, which is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using documented methodologies, to be a potential lead-based paint hazard and having a distinct painting history, shall also be tested for the presence of lead.

(5) In residential dwellings, dust samples (either composite or single-surface samples) from the window and floor shall be collected in all living areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(6) For multi-family dwellings and child-occupied facilities, the samples required in paragraph (d)(4) of this section shall be taken. In addition, window and floor dust samples (either composite or single-surface samples) shall be collected in the following locations:

- (i) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and
- (ii) Other common areas in the building where the risk assessor determines that one or more children, age 6 and under, are likely to come into contact with dust.

(7) For child-occupied facilities, window and floor dust samples (either composite or single-surface samples) shall be collected in each room, hallway or stairwell utilized by one or more children, age 6 and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age 6 and under, are likely to come into contact with dust.

(8) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

- (i) Exterior play areas where bare soil is present; and
- (ii) Dripline/foundation areas where bare soil is present.

(9) Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.

(10) Any collected paint chip, dust, or soil samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(11) The certified risk assessor shall prepare a risk assessment report which shall include the following information:

- (i) Date of assessment.
- (ii) Address of each building.
- (iii) Date of construction of buildings.
- (iv) Apartment number (if applicable).
- (v) Name, address, and telephone number of each owner of each building.
- (vi) Name, signature, and certification of the certified risk assessor conducting the assessment.
- (vii) Name, address, and telephone number of the certified firm employing each certified risk assessor if applicable.
- (viii) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.
- (ix) Results of the visual inspection.
- (x) Testing method and sampling procedure for paint analysis employed.
- (xi) Specific locations of each painted component tested for the presence of lead.
- (xii) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.
- (xiii) All results of laboratory analysis on collected paint, soil, and dust samples.
- (xiv) Any other sampling results.
- (xv) Any background information collected pursuant to paragraph (d)(3) of this section.

(xvi) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.

(xvii) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.

(xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(e) *Abatement.*

(1) An abatement shall be conducted only by an individual certified by EPA, and if conducted, shall be conducted according to the procedures in this paragraph.

(2) A certified supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager or answering service, and able to be present at the work site in no more than 2 hours.

(3) The certified supervisor and the certified firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this section and all other Federal, State and local requirements.

(4) Notification of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as a result of a Federal, State, or local order shall be given to EPA prior to the commencement of abatement activities.

The procedure for this notification will be developed by EPA prior to August 31, 1998.

(5) A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

(i) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

(ii) A certified supervisor or project designer shall prepare the occupant protection plan.

(6) The work practices listed below shall be restricted during an abatement as follows:

(i) Open-flame burning or torching of lead-based paint is prohibited;

45824 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

(ii) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

(iii) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than 2 square feet in any one room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces; and

(iv) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.

(7) If conducted, soil abatement shall be conducted in one of the following ways:

(i) If soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated; or

(ii) If soil is not removed, the lead-contaminated soil shall be permanently covered, as defined in § 745.223.

(8) The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor:

(i) Following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(ii) Following the visual inspection and any post-abatement cleanup required by paragraph (e)(8)(i) of this section, clearance sampling for lead-contaminated dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(iii) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.

- (iv) Dust samples for clearance purposes shall be taken a minimum of 1 hour after completion of final post-abatement cleanup activities.
 - (v) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:
 - (A) After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.
 - (B) After conducting an abatement with no containment, two dust samples shall be taken from no less than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are less than four rooms, hallways or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells shall be sampled.
 - (C) Following an exterior paint abatement, a visible inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable Federal, State and local requirements.
 - (vi) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.
 - (vii) The certified inspector or risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each dust sample with applicable clearance levels for lead in dust on floors and windows. If the residual lead levels in a dust sample exceed the clearance levels, all the components represented by the failed sample shall be recleaned and retested until clearance levels are met.
- (9) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:
- (i) The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.
 - (ii) A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.
 - (iii) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in paragraph (e)(8) of this section.
- (10) An abatement report shall be prepared by a certified supervisor or project designer. The abatement report shall include the following information:
- (i) Start and completion dates of abatement.
 - (ii) The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project.
 - (iii) The occupant protection plan prepared pursuant to paragraph (e)(5) of this section.
 - (iv) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.
 - (v) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses.
 - (vi) A detailed written description of the abatement, including abatement methods used, locations of rooms and/ or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

(f) *Collection and laboratory analysis of samples.*

Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in this section shall be:

- (1) Collected by persons certified by EPA as an inspector or risk assessor; and
- (2) Analyzed by a laboratory recognized by EPA pursuant to section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

(g) *Composite dust sampling.*

Composite dust sampling may only be conducted in the situations specified in paragraphs (c) through (e) of this section. If such sampling is conducted, the following conditions shall apply:

- (1) Composite dust samples shall consist of at least two subsamples;
- (2) Every component that is being tested shall be included in the sampling; and
- (3) Composite dust samples shall not consist of subsamples from more than one type of component.

(h) *Recordkeeping.*

All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for

45825 Federal Register / Vol. 61, No. 169 / Thursday, August 29, 1996 / Rules and Regulations

no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

§ 745.228 Accreditation of training programs: public and commercial buildings, bridges and superstructures [Reserved].

§ 745.229 Certification of individuals and firms engaged in lead-based paint activities: public and commercial buildings, bridges and superstructures [Reserved].

§ 745.230 Work practice standards for conducting lead-based paint activities: public and commercial buildings, bridges and superstructures [Reserved].

§ 745.233 Lead-based paint activities requirements.

Lead-based paint activities, as defined in this part, shall only be conducted according to the procedures and work practice standards contained in § 745.227 of this subpart. No individual or firm may offer to perform or perform any lead-based paint activity as defined in this part, unless certified to perform that activity according to the procedures in § 475.226.

§ 745.235 Enforcement

- (a) Failure or refusal to comply with any requirement of §§745.225, 745.226, 745.227, or 745.333 is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).
- (b) Failure or refusal to establish, maintain, provide, copy, or permit access to records or reports as required by §§745.225, 745.226, or 745.227 is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).
- (c) Failure or refusal to permit entry or inspection as required by §745.237 and section 11 of TSCA (15 U.S.C. 2610) is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).
- (d) In addition to the above, any individual or firm that performs any of the following acts shall be deemed to have committed a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689). These include the following:
 - (i) Obtaining certification through fraudulent representation:
 - (ii) Failing to obtain certification from EPA and performing work requiring certification at a job site; or
 - (iii) Fraudulently obtaining certification and engaging in any lead-based paint activities requiring certification.
- (e) Violators are subject to civil and criminal sanctions pursuant to section 16 of TSCA (15 U.S.C. 2615) for each violation.

§ 745.237 Inspections.

EPA may conduct reasonable inspections pursuant to the provisions of section 11 of TSCA (15 U.S.C. 2610) to ensure compliance with this subpart.

§ 745.239 Effective dates.

This subpart L shall apply in any State or Indian Country that does not have an authorized program under subpart Q effective August 31, 1998. In such States or Indian Country:

- (a) Training programs shall not provide, offer or claim to provide training or refresher training for certification without accreditation from EPA pursuant to § 745.225 on or after March 1, 1999.
- (b) No individual or firm shall perform, offer or claim to perform lead-based paint activities, as defined in this subpart, without certification from EPA to conduct such activities pursuant to § 745.226 on or after August 30, 1999.
- (c) All lead-based paint activities shall be performed pursuant to the work practice standards contained in § 745.227 on or after August 30, 1999.

Subparts M-P [Reserved]

DUST AND SOIL STANDARDS

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Health
Environmental Health Administration



District of Columbia
Lead Dust and Soil Standards

The federal requirements of 40 CFR § 745.227, work practice standards for conducting lead-based paint activities in target housing and child-occupied facilities, are incorporated by reference in the District of Columbia Lead Control Rules, 20 DCMR § 806.1. The EPA amended 40 CFR § 745.277 effective March 6, 2001, to adopt dust-lead and soil-lead hazard levels in § 745.227(h)(3) and (4); lead in dust clearance levels in § 745.227(e)(8)(viii); and soil abatement requirements in § 745.227(e)(7). The following table contains the lead hazard levels and clearance standards used to determine whether units/properties are in compliance with the District's lead hazard control requirements.

Sample Locations	Hazard Levels	Dust Clearance Standards	Soil Clearance Standard
Dust on Floors (including carpeted floors)	40 µg/ft ² or greater	Less than 40 µg/ft ² (on a weighted average of all wipe samples)	
Dust on Interior window sills	250 µg/ft ² or greater	Less than 250 µg/ft ² (on a weighted average of all wipe samples)	
Dust on Window troughs		Less than 400 µg/ft ² (on a weighted average of all wipe samples)	
Play area /bare Residential Soil	400 ppm or greater		See requirements for soil abatement.
Bare Soil in remainder of area	1,200 ppm or greater		See requirements for soil abatement.

If a property fails the dust clearance standards, it must be re-cleaned until it passes, although it is not automatically necessary to re-clean the entire property when clearance fails, such as when some of the visual and dust-testing clearance results have indicated that portions of the property are already cleared.

If soil has been removed due to presence of lead, it must be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 400 ppm. If the soil has not been removed, it must be permanently covered (separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete).

If you have any questions, please do not hesitate to contact Mr. Henry Howze, Inspections Coordinator, DC Lead Based Paint Management Program at 202-535-2627/1934.

Dr. V. Sreenivas, Deputy Bureau Chief
for Hazardous Material and Toxic Substance
Chief, Lead Based Paint Management Program

BILL 15-0266

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Lead-Based Paint Abatement Control Act of 1996 to change exemptions and increase criminal and civil penalties and fines for violations to match federal standards; to amend the Housing Regulations of the District of Columbia to require notice to the Department of Health of peeling paint in older housing businesses, and to amend section 806 of title 20 of the District of Columbia Municipal Regulations to make technical amendments.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Lead-Based Paint Abatement and Control Temporary Amendment Act of 2003”.

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Sec. 2. The Lead-Based Paint Abatement and Control Act of 1996, effective April 9, 1997 (D.C. Law 11-221; D.C. Official Code § 8-115.01 *et seq.*), is amended as follows:

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(a) Section 2 (D.C. Official Code § 8-115.01) is amended as follows:

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(1) Paragraph (2) is amended by striking the number “8” and inserting the number “6” in its place.

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(2) Paragraph (8) is amended by striking the phrase “seven-tenths of a milligram per square centimeter (0.7 mg/cm²)” and inserting the phrase “one milligram per square centimeter (1.0 mg/cm²)” in its place.

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(3) A new paragraph (12) is added to read as follows: 1

”(12) “0-bedroom unit” means any residential unit in which the living areas are 2

not separated from the sleeping areas.”. 3

(b) Section 5 (D.C. Official Code § 8-115.04(2)) is amended as follows: 4

(1) Paragraph (1) is amended by striking the number “8” and inserting the 5

number “6” in its place. 6

(2) Paragraph (2) is amended by striking the number “8” and inserting the 7

number “6” in its place. 8

(c) Section 8(a) (D.C. Official Code § 8-115.07(a)) is amended by striking the phrase 9

“individuals, except governmental agencies.” And inserting the phrase “individuals.” In its place. 10

(d) Section 13(a) (D.C. Official Code § 8-115.12(a)) is amended to read as follows: 11

“(a) Notwithstanding any other provision of this act, any person who knowingly or 12

willfully violates sections 4,6,7,8, or the implementing rules and regulations, shall be guilty 13

of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than \$25,000, 14

imprisonment of not more than one year, or both.”. 15

(e) Section 14(a) (D.C. Official Code § 8-115.13(a)) is amended by striking the phrase 16

“\$500” and inserting the phrase “\$25,000 in its place. 17

Sec. 3. Article 310 of the Housing Regulations of the District of Columbia, effective 18

August 11, 1955 (C.O. 55-1503; 14 DCMR Chapter 2), is amended by adding a new subsection 19

3103.6 (14 DCMR § 201.6) to read as follows: 20

“3103.6 The Director of the District agency responsible for enforcement of the housing 21

regulations shall report to the Director of the District agency responsible for health regulations, 22

the presence of peeling paint on the interior or exterior surfaces of any housing business built 1
before 1978, and licensed under this chapter, excluding hotels and motels”. 2

Sec. 4. the Housing Regulations of the District of Columbia, effective August 19, 1983 3
(D.C. Law 5-35; 14 DCMR §§ 199, 707), are amended as follows: 4

(a) Section 1102 (14 DCMR § 199.1) is amended by amending the definition for the term 5
“exterior surface” by striking the phrase “eight (8)” and inserting the phrase six (6)” in its place. 6

(b) Section 2605.4 (14 DCMR § 707.3-707.4) is amended as follows: 7

(1) By striking the phrase “eight (8)” in each place it appears and inserting the 8
Phrase “six (6)” in each place; and 9

(2) by striking the phrase “0.5 of 1 percent of the total weight of the material or 10
more than 0.7 milligrams per square centimeter (0.7 mg/cm²)” in each place it appears and 11
inserting the phrase “five-tenths of one percent (0.5%) of the total weight of the material or more 12
than one milligram per square centimeter (1.0 mg/cm²)” in its place. 13

(c) Section 2605.2 (14 DCMR §§ 707.8-707.12) is amended by striking the number “8” 14
and inserting the phrase “six (6)” in its place. 15

(d) Section 2605.3 (14 DCMR §§ 707.13-707.14) is amended as follows: 16

(1) By striking the phrase “0.5 of 1 percent or more of the total weight of materials 17
or 0.7 milligrams or more per square centimeter (0.7 mg/cm²)” and inserting the phrase 18
“five-tenths of one percent (0.5%) or more of the total weight of materials or one milligram per 19
square centimeter (1.0 mg/cm²)” in its place; and 20

(2) by striking the number “8” in each place it appears and inserting the phrase 21
“six (6)” in each place. 22

(e) Section 2605a(a) (4 DCMR §§ 707.15-707.16) is amended by striking the number “8”	1
in each place it appears and inserting the phrase “six (6)” in each place.	2
Sec. 5. Section 806.1(e)(3) of Title 20 of the District of Columbia Municipal	3
Regulations, (Environment) (February 1997) (20 DCMR § 806.1 (e)) is amended by striking the	4
phrase “If performing clearance tests, the” and inserting the word “The” in its place.	5
Sec. 6. Fiscal impact statement.	6
The Council adopts the attached fiscal impact statement as the fiscal impact statement	7
required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December	8
24, 1973 (87 Stat. *813; D.C. Official Code § 1-206.2(2)(3).	9
Sec. 7. Effective Date.	10
(a) This act shall take effect following approval by the Mayor (or in the event of veto by	11
the Mayor, action by the Council to override the veto), a 30-day period of Congressional review	12
as provided in section 602(c)(1) of the District of Columbia Home rule Act, approved	13
December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the	14
District of Columbia Register.	15
(b) This act shall expire after 225 days of its having taken effect.	16

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2003 Fall
Supp.

West Group
Publisher

To amend, on an emergency basis, the Lead-Based Paint Abatement and control Act of 1996 to Change exemptions and increase criminal and civil penalties and fines for violations to match federal standards; to amend the Housing Regulations of the District of Columbia to require notice to the Department of Health of peeling paint in older housing businesses; and to amend section 806 of Title 20 of the District of Columbia Municipal Regulations to make technical amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003”.

Sec. 2. The Lead-Based Paint Abatement and Control Act of 1996, effective April 9, 1997 (D.C. Law 11-221; D.C. Official Code § 8-115.01 *et seq.*), is amended as follows:

Note,
§ 8-115.01

(a) Section 2. (D.C. Official Code § 8-115.01) is amended as follows:

(1) Paragraph (2) is amended by striking the number “8” and inserting the number “6” in its place.

(2) Paragraph (8) is amended by striking the phrase “seven-tenths of a milligram per square centimeter (0.7 mg/cm²)” and inserting the phrase “one milligram per square centimeter (1.0 mg/cm²)” in its place.

(3) A new paragraph (12) is added to read as follows:

“(12) “0-bedroom unit” means any residential unit in which the living areas are not separated from the sleeping areas.”.

(b) Section 5 (D.C. Official Code § 8-115.04) is amended as follows:

Note,
§ 8-115.04

(1) Paragraph (1) is amended by striking the number “8” and inserting the number “6” in its place.

(2) Paragraph (2) is amended by striking the number “8” and inserting the number “6” in its place.

(c) Section 8(a) (D.C. Official Code § 8-115.07(a)) is amended by striking the phrase “individuals, except governmental agencies.” And inserting the phrase “individuals.” in its place.

Note,
§ 8-115.07

ENROLLED ORIGINAL

(c) Section 13(a) (D.C. Official Code § 8-115.12(a)) is amended to read as follows:

Note,
§ 8-115.12

“(a) Notwithstanding any other provision of this act, any person who knowingly or willfully violates sections 4,6,7, or 8, or the implementing rules and regulations, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than \$25,000, imprisonment of not more than one year, or both.”.

(e) Section 14(a) (D.C. Official code § 8-115.13(a)) is amended by striking the phrase “\$500” and inserting the phrase “\$25,000” in its place.

Note,
§ 8-115.13

Sec. 3. The Housing Regulations of the District of Columbia, issued August 11, 1955 (C.O. 55-1503; 14 DCMR Chapters 1 – 13), are amended as follows:

DCMR

(a) Section 1102 (14 DCMR § 199.1) is amended by amending the definition for the term “exterior surface” by striking the number “8” and inserting the phrase “six (6)” in its place.

(b) Section 2605.2 (14 DCMR §§ 707.8-707.12) is amended by striking the number “8” and inserting the phrase “six (6)” in its place.

(c) Section 2605.3 (14 DCMR §§ 707.13-707.14) is amended as follows:

(1) Strike the phrase “0.5 of 1 percent or more of the total weight of the materials or 0.7 milligrams or more per square centimeter (0.7 mg/cm²)” and insert the phrase “five-tenths of one percent (0.5%) or more of the total weight of the materials or one milligram per square centimeter (1.0 mg/cm²)” in its place.

(2) Strike the number “8” wherever it appears and insert the phrase “six (6)” in its place.

(d) Section 2605.4 (14 DCMR §§ 707.3-707.4) is amended as follows:

(1) Strike the number “8” wherever it appears and insert the phrase “six (6)” in its place.

(2) Strike the phrase “0.5 of 1 percent of the total weight of the material or more than 0.7 milligrams per square centimeter (0.7 mg/cm²)” wherever it appears and insert the phrase “five-tenths of one percent (0.5%) of the total weight of the material or more than one milligram per square centimeter (1.0 mg/cm²)” in its place.

(e) Section 2605a(a) (14 DCMR §§ 707.15-707.16) is amended by striking the number “8” wherever it appears and inserting the phrase “six (6)” in its place.

(f) A new section 3103.6 (14 DCMR § 201.6) is added to read as follows:

“3103.6 The Director of the District agency responsible for enforcement of the housing regulations shall report to the Director of the District agency responsible for health regulations the presence of peeling paint on the interior or exterior surfaces of any housing business built before 1978, and licensed under this chapter, excluding hotels and motels.”.

Sec. 4. Section 806.1(e)(3) of Title 20 of the District of Columbia Municipal Regulations (February 1997) (20 DCMR § 806.1(e)(3)) is amended by striking the phrase “If performing clearance tests, the” and inserting the word “The” in its place.

DCMR

ENROLLED ORIGINAL

Sec. 5. Applicability.

This act shall apply as of May 30, 2003.

Sec. 6. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement Required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (876 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia